

REMARKS

Amendments

Claims 8 and 26 have been amended in the manner helpfully suggested by the Examiner in the outstanding Office Action. The Examiner is thanked for these constructive suggestions.

Claims 8-10, 14, 15 and 22-32 are pending in the application. Claims 8-10, 14, 15 and 22-32 have been rejected.

Rejections under 35 U.S.C. 112

Claims 29 and 32 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

This rejection is respectfully traversed.

Claim 29 presents subject matter that has previously been presented in original claim 16. Specifically, original claim 16 recited a food product of the present invention in one of three separate states: fresh, refrigerated or frozen. These three different states have been separated from one another to provide clarity, and are now presented in claims 29, 30 and 31. The specification recognizes a distinction between these states in paragraph [0079], wherein the product or intermediate may be prepared and immediately sprayed with the cyclodextrin-water or cyclodextrin-oil complex prior to cooking at lines 6-8 of page 18 (i.e. fresh per claim 29), or alternatively may be stored in a refrigerated (claim 30) or frozen state (claim 31) as discussed at line 9 of page 18. It is therefore respectfully submitted that claim 29 satisfied the written description requirement of section 112.

Claim 32 has been rejected, the Office Action stating that the specification paragraph [0027] does not fully support the language of the claim. Claim 32 relates to a method wherein the food product or food intermediate is provided by a product supplier with instruction for applying the composition by a third party applicator for remote consumer or commercial application. Paragraph [0027] teaches that the coating compositions “would be packaged in convenient to use forms for such as for home or consumer use, commercial application as well as for use in retail outlets such as food service

installations.” While the exact language of the present claims is not presented *in ipsis verbis*, it is respectfully submitted that word-for-word literal antecedent basis is not required. It is clear that the cited paragraph teaches the concept presently claimed where the product is supplied by one party for application by another in remote home or retail environments. It further is immediately understood that one would certainly provide instruction for application where the product is to be applied in such remote home or retail environments. It is therefore respectfully submitted that the subject matter of the present claim is fully supported by the original specification.

Claim 8 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner has noted a number of informalities and provided helpful recommendations regarding amendments. All recommendations have been adopted.

Rejections under 35 U.S.C. 102 and 013

Claim 8, 9, 14, 15, 22-25 and 27-29 have been rejected under 35 U.S. C. 102(e) as being clearly anticipated by Plank et al (Pub. No. 2004/0180129).

The present invention relates to a method of prevention of formation of acrylamide in heat treated food products by topically applying a composition containing a cyclodextrin to a food product or food intermediate in an amount effective to prevent formation of acrylamide during heating, and subjecting the food product or food intermediate to heating of at least 100°C.

Attached hereto is a declaration under 37 CFR 132, establishing that the disclosure in Plank et. al. relevant to the rejected claims originated with or were obtained from Inventors Plank and Novak of the present application. The declaration further identifies that the invention as claimed in instant claims 8, 9, 14-15, 22-25, and 27-29 was invented by Inventors Plank and Novak. Thus, the subject matter as described in Plank et.al was not described by “another” in the sense of 35 U.S. C. 102(e). Applicants

respectfully request withdrawal of this rejection in view of this declaration. See MPEP716.10.

Claims 10, 26 and 30-32 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Plank et al.

Applicants hereby state that the subject matter of the reference (Plank et. al.) and of the presently claimed invention were, at the time the claimed invention was made, subject to an obligation of assignment to the same person. This reference therefore is not available for use under 35 U.S.C. 103 in view of 35 U.S.C. 103 (c)(1). Applicants therefore respectfully request withdrawal of this rejection.

Conclusion

In view of the amendments and remarks provided herein, Applicants respectfully submit that all of the pending claims are in condition for allowance, and respectfully request notification thereof.

In the event that a phone conference between the Examiner and the Applicants' undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact the attorney at (651) 275-9811.

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Respectfully Submitted,

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